IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2006

CORAM

THE HONOURABLE MR.JUSTICE P.JYOTHIMANI

W.P.NOS.31044 OF 2004 AND 33858 OF 2005
AND
W.P.M.P.NO.18209 OF 2006

W.P.NO.31044 OF 2004:

The Transport & Dock Workers Union,
rep. by its General Secretary,
K.R.Chandrasekaran
No.9, II Line Beach,
Chennai-600 001 .. Petitioner

Vs.

1.Chennai Port Trust,
rep. by its Chairman,
Rajaji Salai,
Chennai-600 001.

2.The Chairman,
Chennai Port Trust,
Rajaji Salai,
Chennai-600 001.

3.The Registrar of Trade Unions,
D.M.S.Complex,
Teynampet,
Chennai-600 006.

4.D.Purushothaman .. Respondents

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W.P.NO.33858 OF 2005:

The Transport & Dock Workers Union,
Madras (Regn.No.3171/1961)
rep. by its General Secretary
D.Purushothaman
No.32, Perumal Mudali Street,
Kondithope,
Chennai-79 .. Petitioner

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Vs.

1.The Chairman,
Chennai Port Trust,
Chennai-1.

2.The Secretary,
Chennai Port Trust,
Chennai-1.

3.The Transport & Dock Workers Union,
rep. by its General Secretary,
K.R.Chandrasekaran
No.9, II Line Beach,
Chennai-600 001
(R-3 suo motu impleaded as per
order, dated 9.12.2005) .. Respondents

W.P.No.31044 of 2004 is presented under Article 226 of the Constitution of India praying for the issue of a writ of certiorarified mandamus to call for the records and quash the order passed by the second respondent bearing No.IR4/16323/03/S, dated 8.10.2004 and consequently direct the respondents 1 and 2 to forbear from affording check off facility to the fourth respondent insofar as the employees of the Chennai Port Trust are concerned.

W.P.No.33858 of 2005 is presented under Article 226 of the Constitution of India praying for the issue of a writ of mandamus directing the first respondent to forthwith extend/implement the check-off system in favour of the petitioner's union along with all other Unions on the basis of the representation, dated 27.09.2005.

For Petitioners : Ms.A.V.Bharathi
in WP No.31044 of 2004
Mr.L.Chandrakumar
in WP No.33858 of 2005

For Respondents : Mr.M.Jagadeesan
for Port Trust in both WPs
Mr.L.Chandrakuamr for R4
in WP No.31044 of 2004
Ms.A.V.Bharathi for R3
in WP No.33858 of 2005

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COMMON ORDER

W.P.No.31044 of 2004 is filed against the order of the second respondent, dated 8.10.2004, in which it is stated that Chennai Port Trust has no locus standi to decide the dispute between the petitioner and the fourth respondent and the dispute, which relates to the trade union activities, has to be adjudicated by the Registrar of Trade Unions, Chennai and therefore, both the petitioners were directed to approach the Registrar of Trade Union, Chennai, seeking adjudication in the matter to establish their claim with regard to the Transport & Dock Workers Union, Chennai. The petitioner, who is stated to be the General Secretary of the Transport & Dock Workers Union, challenges the order on the ground that as far as the fourth respondent is concerned, he has no locus standi to claim himself to be the General Secretary and the dispute has already been settled. In view of the same, according to the learned counsel for the petitioner in W.P.No.31044 of 2004, the fist respondent has to recognize the petitioner only as the General Secretary.

2.On the other hand, the fourth respondent has filed W.P.No.33858 of 2005 for a direction against the first respondent to extend and implement the check off system in favour of the petitioner's union along with other unions on the basis of the representation dated 27.9.2005.

3.The further grievance of the petitioner in W.P.No.31044 of 2004 is that on the same day, i.e. on 8.10.2004, the first respondent has passed further order in favour of the fourth respondent Purushothaman, calling himself as the General Secretary of the Transport & Dock Workers Union, S.C.C. Anthoni Pillai Bhavan, No.9, Second Line Beach, Chennai-1, stating that in respect of the claim to deduct the Subscription fee from the members, who have participated in the Check-Off 2004, the same will be deducted from the month of November, 2004. According to the learned counsel for the petitioner, the first respondent cannot be expected to pass such an order in favour of the fourth respondent.

4.Admittedly, there is dispute between the petitioner and the fourth respondent. The first respondent in his order, dated 8.10.2004, has stated that the dispute has to be resolved only through the Registrar of Trade Unions, Chennai, since it relates to the Trade Union Act. In view of the same, the order of the first respondent in directing both the parties, namely the petitioner as well as the fourth respondent to approach the Registrar of Trade Union for adjudication is perfectly in order. However, the subsequent order, dated 8.10.2004, by which recognition is stated

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to have been given to the fourth respondent, cannot be warranted, at this stage, especially when it is stated that the dispute has to be resolved by the Registrar of the Trade Unions. It is also seen that this order has been stayed by this Court and the stay continues as on date. In view of the same, these writ petitions are disposed of with the following directions:

(1)The petitioner and the fourth respondent in W.P.No.31044 of 2004 are directed to file a representations before the Registrar of Trade Unions, Chennai for resolution of the dispute in respect of holding of the post as General Secretary of the Transport & Dock Workers' Union, within a period of two weeks from the date of receipt of copy of this order.

(2)On receipt of such representation from the petitioner and the fourth respondent, the Registrar of Trade Unions shall pass appropriate orders, after conducting proper enquiry, giving opportunity to the petitioner and the fourth respondent and such an order shall be passed within a period of four weeks thereafter.

(3)Since the order, dated 8.10.2004 of the first respondent in respect of the Check Off 2004 in deducting the subscription from the members has already been stayed, the said order, dated 8.10.2004 will be kept in abeyance till the Registrar of Trade Unions passes appropriate orders as stated above.

5.These writ petitions are disposed of with the above direction. There shall be no order as to the costs. Consequently, connected WPMP is closed.

vvk

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1.The Chairman,
Chennai Port Trust,
Rajaji Salai,
Chennai-600 001.

2.The Registrar of Trade Unions,
D.M.S.Complex,
Teynampet,
Chennai-600 006.

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3.The Secretary,
Chennai Port Trust,
Chennai-1.

4. The General Secretary
Transport & Dock Workers Union,
Madras (Regn.No.3171/1961)
No.32, Perumal Mudali Street,
Kondithope,
Chennai-79

5. The General Secretary
Transport & Dock Workers Union,
No.9, II Line Beach,
Chennai-600 001

= one cc to Mr. L. Chandrakumar, Advocate sr no. 55205
= one cc Mrs. R.V. Bharathi, Advocate sr no. 54936
= one cc to Mr. M. Jegadeesan, Advocate sr no. 54929

AKM(CO)
NM(21.11.2006)



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